

THE FOLLOWING RESOLUTION WAS OFFERED  
BY COUNCIL MEMBER AQUINO, WHO  
MOVED ITS ADOPTION, SECONDED BY  
COUNCIL MEMBER ABRAHAM, TO WIT:

**WHEREAS**, the Municipal Home Rule Law of the State of New York and Chapter 26 of the Code of the Town of Lancaster provide for the adoption and enactment of local laws, and

**WHEREAS**, after review and consideration, the Town Board of the Town of Lancaster deems it in the public interest to enact a Local Law of the Year 2010, entitled “SIDEWALKS AND STREETS REVISION”, which will amend the Code of the Town of Lancaster by adding Section 12-4 ( B ), 12-4 ( C ) and to re-label current Section 12-4 (B) as new Section12-4 (D) within Chapter 12 “Sidewalks and Streets”, Section 4 “Care by owners or occupants”of the Code of the Town of Lancaster, which reads as follows:

## **Chapter 12**

### **SIDEWALKS AND STREETS**

#### **Section 12-4, Care by Owners or Occupants Revision**

#### **Proposed Local Law Of the Year 2010**

**A LOCAL LAW OF THE YEAR 2010 ENTITLED “SIDEWALK REVISION”, WHICH WILL, AMEND THE CODE OF THE TOWN OF LANCASTER BY ADDING SECTION 12-4 (B), 12-4 (C) AND TO RE-LABEL CURRENT SECTION 12-4 (B) AS NEW SECTION 12-4 (D), OF CHAPTER 12, SECTION 4 “CARE BY OWNERS AND OCCUPANTS.”**

**BE IT ENACTED**, by the Town Board of the Town of Lancaster, New York as follows:

The Code of the Town of Lancaster is hereby amended by enacting the Local Law of the Year 2010 entitled “Sidewalks and Streets Revision” which adds Section 12-4 (B), 12-4 (C) and re-labels current Section 12-4 (B) as new section 12-4 (D) to Chapter 12, “Sidewalks and Streets”, Section 4, “Care by Owners and Occupants” of the Town Code which reads as follows:

#### **§12-4. Care by Owners and Occupants**

B. Liability of real property owner for failure to maintain sidewalk in a reasonably safe condition.

1. It shall be the duty of the owner of real property abutting any sidewalk, including, but not limited to, the intersection quadrant for corner property, to maintain such sidewalk in a reasonably safe condition.

2. Notwithstanding any other provision of law, the owner of real property abutting any sidewalk, including, but not limited to, the intersection quadrant for corner property, shall be liable for any injury to property or personal injury, including death, proximately caused by the failure of such owner to maintain such sidewalk in a reasonably safe condition. Failure to maintain such sidewalk in a reasonably safe condition shall include, but not be limited to, the negligent failure to install, construct, reconstruct, repave, repair, or replace defective sidewalk flags and the negligent failure to remove snow, ice, dirt, or other material from the sidewalk.

3. Notwithstanding any other provision of law, the Town shall not be liable for any injury to property or personal injury, including death, proximately caused by the failure to maintain sidewalks in a reasonably safe condition. This subdivision shall not be construed to apply to the liability of the town as a property owner pursuant to subdivision (b) of this section.

4. Nothing in this section shall in any way affect the provisions of this chapter or of any other law or rule governing the manner in which an action or proceeding against the Town is commenced, including any provisions requiring prior notice to the Town of defective conditions.

C. Personal injury and property damage liability insurance. An owner of real property, other than a public corporation as defined in section sixty-six of the general construction law or a state of federal agency or instrumentality, to which subdivision (a) of this section of this code applies, shall be required to have a policy of personal injury and property damage liability insurance for such property for liability for any injury to property or personal injury, including death, proximately caused by the failure of such owner to maintain the sidewalk abutting such property in a reasonably safe condition. The Town shall not be liable for any injury to property or personal injury, including death, as a result of the failure of an owner to comply with this section.

D. The owner and the occupant shall be jointly and severally responsible for compliance with the provisions hereof.

This Local Law shall be effective upon filing with the Secretary of State pursuant to the Municipal Home Rule Law.

**NOW, THEREFORE, BE IT  
RESOLVED,** as follows:

1. That pursuant to the Municipal Home Rule Law of the State of New York and Chapter 26 of the Code of the Town of Lancaster, a Public Hearing on the proposed Local Law of the Year 2010, entitled “Sidewalks and Streets Revision” which Local Law adds Sections 12-4 ( B ), 12-4 ( C ) and to re-label current Section 12-4 (B) as new Section 12-4 (D) within Chapter 12 “Sidewalks and Streets”, Section 4 “Care by owners or occupants” of the Code of the Town of Lancaster will be held at the Town Hall, 21 Central Avenue, Lancaster, New York, at 8:30 o’clock P.M., Local Time, on the 17<sup>th</sup> day of May, 2010, and that Notice of the Time and Place of such Hearing shall be published, in the Lancaster Bee, being a newspaper of general circulation in said Town and posted on the Town Bulletin Board, which Notice shall be in the form attached hereto and made a part hereof, and

2. That the Town Clerk is hereby directed to make copies of this proposed Local Law for the Year 2010, entitled “Sidewalks and Streets Revision” available for inspection by and distribution to any person during business hours.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AQUINO	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	WAS ABSENT
SUPERVISOR GIZA	VOTED YES

May 3, 2010

**LEGAL NOTICE  
PUBLIC HEARING  
TOWN OF LANCASTER**

**LEGAL NOTICE IS HEREBY GIVEN**, that pursuant to the Municipal Home Rule Law of the State of New York and Chapter 26 of the Code of the Town of Lancaster and pursuant to a resolution of the Town Board of the Town of Lancaster, adopted May 3, 2010, the said Town Board will hold a Public Hearing on the 17<sup>th</sup> day of May, 2010 at 8:30 o'clock P.M., Local Time, at the Town Hall, 21 Central Avenue, Lancaster, New York, to hear all interested persons upon a proposed Local Law of the Year 2010, entitled "Sidewalks and Streets Revision", and further designated as Chapter 12, "Sidewalks and Streets", Section 4, "Care by owners or occupants" of the Code of the said Town, briefly described as follows:

**"A LOCAL LAW WHICH WILL AMEND CHAPTER 12 SIDEWALKS  
AND STREETS, SECTION 4 CARE BY OWNERS OR OCCUPANTS"**

A complete copy of this proposed Local Law of the Year 2010, entitled "Sidewalks and Streets Revision ", and designated as Chapter 12, "Sidewalks and Streets", Section 4, "Care by owners and occupants", of the Code of the Town of Lancaster, is available at the office of the Town Clerk for inspection and distribution to any person during business hours.

Full opportunity to be heard will be given to any and all citizens and all parties in interest.

**TOWN BOARD OF THE  
TOWN OF LANCASTER**

**By: JOHANNA M. COLEMAN**  
**Town Clerk**  
May 3, 2010